

Approved First Reading – April 15, 2011

Proposed Second Reading – May 20, 2011

Passed May 20, 2011

Chapter 160 – Zoning

Chapter 160-5 A (Use Regulations):

Add:

(61) Auctions

a) Definitions:

(1) Auction House. Any premises within the Commercial Zone where personal or real property is sold by auction to the highest bidder by a Professional Auctioneer.

(2) Professional Auctioneer. Every person engaged in the business of crying sales of real or personal property on behalf of other persons for profit. A Professional Auctioneer must be licensed as an auctioneer by the State of Delaware and the Town of Fenwick Island. All Professional Auctioneers must be insured to the extent required by the State of Delaware and Delaware law.

(3) Real Estate Auction. An auction whereat any real property within the Town of Fenwick Island is sold to the highest, qualified bidder. Real Estate Auctions must be conducted by a Professional Auctioneer and may be, but are not required to be, held on the real property being sold at auction.

b) Regulations for Auction Houses and Real Estate Auctions:

- (1) Auctions must adhere to all Federal and State laws and regulations.
- (2) All auctions must be conducted by a Professional Auctioneer licensed by the State of Delaware and the Town of Fenwick Island.
- (3) Any and all personal property being sold at auction must be stored and displayed inside the Auction House. No such personal property may be stored or displayed outside of the Auction House.
- (4) No signs or devices which produce noise or sound, or which emit visible smoke, vapor, particles or odor shall be used for advertising purposes or to attract attention.
- (5) A register of all buyers and sellers participating in an auction must be maintained at all times by the Professional Auctioneer responsible for conducting the auction. As part of said register, the Professional Auctioneer must also maintain an accurate list of all real and/or personal property bought and sold, together with a description of said real and/or personal property.
- (6) All auctions must be completed by 9:30 p.m.

c) A license issued by the Town of Fenwick Island to a Professional Auctioneer may be suspended and/or revoked for any violation of the Regulations for Auction Houses and Real Estate Auctions set forth above. Such a suspension and/or revocation may also occur for reasons that include, but are not limited, to the following:

- (1) Misleading or untruthful advertising.
- (2) Flagrant misrepresentation of the quality or existence of the personal or real property being sold at auction.

- (3) Knowingly using false bidders.
- (4) Absent a good faith, bona fide dispute, failure to remit payment to the seller of any real or personal property sold at auction and/or failure to transfer any real or personal property sold at auction to the ultimate purchaser thereof.

d) Inspection of Auction Houses. Town officials shall have the power to inspect, during reasonable business hours, any Auction House for the purpose of determining compliance with this §160-5 (61) or any other applicable provision of the Town Code, as well as to determine compliance with State licensing or other regulatory requirements. During any such inspection, Town officials may secure and confiscate any evidence discovered that may be necessary for prosecution under this Chapter. Town officials may, but shall not be obligated to, refer any suspected criminal activity to the proper police authorities.

e) Violations and Penalties. Any person or entity in violation of this §160-5 (61) shall be obligated to pay a civil fine in the amount of \$500.00 for the first violation. Subsequent violations shall be punishable by a fine in such amount of \$1,000.00 per violation. Each day that a violation continues shall be deemed to be a separate and additional violation for purposes of the civil fine imposed hereby. Any appeal of the civil fine imposed shall be lodged with the Fenwick Island Town Council within ten (10) days of receipt of written notice from the Town that the civil fine has been imposed. In the event of an appeal, the appealing party shall be given an opportunity to be heard and to present his case for rescission or reduction of the civil fine before the Town Council. The decision of the Town Council following any such appeal shall be final. Any and all civil fines imposed hereby shall be collectible in the same manner as delinquent taxes and the Town shall be entitled to recover all costs and reasonable attorneys' fees incurred in connection with any such collection effort.

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